IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 17995 of 2006(P)

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PETITIONER:

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T.A. TONY, S/O. ANTONY,
THADIKKARAN HOUSE, EDATHURUTHY VILLAGE,
KODUNGALLORE TALUK.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR)
SRI.JOSE KUTTIYANI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, SECRETAIRAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, TRICHUR.
(LAND ACQUISITION AUTHORITY).

3. THE EXECUTIVE ENGINEER,
NATIONAL HIGHWAY AUTHORITY OF INDIA,
CHEMBUKAVU, THRISSUR.

4. KERALA STATE FINANCIAL ENTERPRISES,
IRINJALAKUDA REPRESENTED BY ITS
BRANCH MANAGER.

5. THE DEPUTY TAHSILDAR (R.R.)
KERALA STATE FINANCIAL ENTERPRISES,
P.B.NO.510, THRISSUR.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
SRI.THOMAS ANTONY
ADV. SHRI.P.N.SANTHOSH, GOVERNMENT PLEADER
SRI.K.S.HARIHARAPUTHRAN,SC,K.S.F.E. LTD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 17995/2006

**APPENDIX**

PETITIONER'S EXHIBITS

P1 : COPY OF THE JUDGMENT IN OP NO. 32928/02 PASSED BY THE HON'BLE HIGH COURT OF KERALA DATED 08/11/2002.

P2 : COPY OF THE STATEMENT OF ACCOUNT FURNISHED BY SDT MANAGER, TRICHUR in the NAME OF M/S. DEFENDER ELECTRONICS DATED 27/03/2001.

P3 : COPY of the OBJECTION SUBMITTED BY THE PETITIONER TO EXT.P2 DATED 18/05/2003.

P4 : COPY OF THE SALE NOTICE IN RESPECT OF 48 CENTS OF LAND IN SY. NO. 6/2 OF OLLUR KARA VILLAGE DATED 20/05/2006.

P5 : COPY of the SALE NOTICE IN RESPECT OF AN EXTENT OF 15 ARES IN RE.SY.NO. 35/2 & 35/8 IN PANACHERRY VILLAGE DATED 20/05/2006.

P6 : COPY OF THE PASS BOOK IN RESPECT OF CHITAL NO.24 OF CHITTY NO. 7/97 ISSUED BY THE 4TH RESPONDENT.

P6(a) : COPY OF THE PASS BOOK IN RESPECT OF CHITAL NO.25 OF CHITTY NO. 7/97 ISSUED BY THE 4TH RESPONDENT.

P6(b) : COPY OF THE PASS BOOK IN RESPECT OF CHITAL NO.26 OF CHITTY NO. 7/97 ISSUED BY THE 4TH RESPONDENT.

P6(c) : COPY OF THE PASS BOOK IN RESPECT OF CHITAL NO.27 OF CHITTY NO. 7/97 ISSUED BY THE 4TH RESPONDENT.

P7 : COPY of the RECEIPT NO. 86 DATED 23/10/2002.

P7(a) : COPY of the RECEIPT NO. 87 DATED 23/10/2002.

P7(b) : COPY OF THE RECEIPT NO. 88 DATED 23/10/2002.

P8 : COPY OF THE REPRESENTATION TO THE HON'BLE MINISTER OF FINANCE DATED 04/10/2002.

P9 : COPY OF THE RECEIPT FOR RS. 40,000/- DATED 07/07/2006.

RESPONDENT'S EXHIBITS

COPY OF THE STATEMENT OF ACCOUNTS OF CHITTY 7/97-24, 7/97-25, 7/97-26 AND 7/97-27.

// TRUE COPY //

PA TO JUDGE.

jg

**C.N.RAMACHANDRAN NAIR, J.**

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**WP(C) No. 17995 of 2006**

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**Dated, this the 3rd day of July, 2007**

**J U D G M E N T**

Petitioner is challenging recovery proceedings initiated for the recovery of balance arrears of chitty subscriptions. Liability is rather admitted even though petitioner has a case that high rate of interest is charged. The property proposed to be sold is stated to be covered by acquisition proceedings. However, learned Standing Counsel for KSFE pointed out that as of now no notice is issued under the Land Acquisition Act. Learned counsel also submitted that by sale of part of the property full liability would be settled. In the circumstances, WP(C) is disposed of directing respondents to withhold recovery proceedings till 31/08/2007. In between petitioner is free to arrange for sale of any part of the property and can even enter into agreement for sale. However, sale deed will be executed only after full arrears are paid to KSFE. If payment is made before 31/08/2007, there will be direction to the respondents to waive penal interest and default interest and there will be further direction not to recover any collection charges for the voluntary payments made by the petitioner. However, if liability is not settled

by 31/08/2007, respondents are free to proceed to sell the property and in that event full amount can be recovered with collection charges.

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

jg